

**REMARKS/ARGUMENTS**

In response to the Office Action mailed September 2, 2004, Applicants submit this Amendment. A listing of all pending claims is submitted herewith.

In the Office Action, the drawings and the abstract are objected to by the Examiner. Claims 6 and 7 are objected to because of informalities. Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph for indefiniteness. Claims 1-10 are rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,395,030 to Kuramoto *et al.* (hereinafter "Kuramoto"). Claims 1-6 are rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 6,387,043 to Yoon (hereinafter "Yoon"). Claims 1-7 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,159,146 to El Gazayerli (hereinafter "El Gazayerli") in view of Kuramoto.

By this Amendment, the drawings, specification and abstract have been amended. Claims 1-6 and 8 have been amended. Claim 7 has been cancelled. New claims 11-16 have been added. No new matter is being submitted in this Amendment. Reconsideration and allowance of the claims in view of the amendments and the remarks below is requested.

**A. The Objections to Drawings, Specification, Abstract and Claims Should Be Withdrawn**

The drawings have been amended. In particular, the phrase "PRIOR ART" has been added to Figs. 1, 2A-E, 3A-3C, and 4A-C. In Figs. 8A, 9A-B, 10, 11, 12A-C, 13, 14A-B, several components have been re-numbered for clarity. A new drawing sheet containing Fig. 9C, which shows the endoscope with all of the features claimed in new claim 11, has been added. Support for Fig. 9C is provided throughout the specification, for example and without limitation,

page 5, line 32 through page 6, line 13; page 17, lines 13-21; page 19, lines 6-28; page 20, line 22 through page 21, line 23. No new matter has been added by the amendments to the drawings.

The detailed description of the specification amended as necessitated by the changes made in the drawing sheets, described hereinabove. As discussed above, the paragraph describing the new Fig. 9C is supported by the specification. The abstract has been amended. It is requested that the objection with respect to the abstract be withdrawn. Claim 6 has been amended, and it is requested that the objection with respect thereto be withdrawn. Claim 7 has been cancelled without prejudice, thereby obviating the objection with respect thereto.

**B. The Claims are Not Indefinite**

Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, (b) as being indefinite. By this Amendment, claims 1, 2, 6 and 10 have been amended. Claim 7 has been cancelled with prejudice, thereby obviating the rejection with respect thereto. It is respectfully requested that the rejection of claims 1-10 under 35 U.S.C. § 112, second paragraph, be withdrawn.

**C. The Claims Are Not Anticipated by Kuramoto**

Claims 1-10 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Kuramoto.

Claim 1, as amended, recites an articulated endoscope comprising two or more independent optical channels that produce two or more distinct views. The objective lens or lenses responsible for producing the first of the independent images is located on the distal tip of the endoscope, adjacent to the articulation section. The objective lens or lenses responsible for producing the second of the independent images is located on the sheath of the endoscope

proximal to the articulation section. According to this arrangement, the two objective lenses are located a fixed distance (measured along the length of the endoscope) away from each other, and are inserted together into the body cavity. The "straight line" distance between the two lenses is varied only by bending of the articulation section.

In contrast, Kuramoto describes an observation window 122 mounted on a first component, *i.e.*, the distal-end face of the flexible insertion section 137 of the main unit 136. A second observation window 144 is located in a second component, *i.e.*, in the distal end portion of insertion section 142. The insertion section 142 is an elongated shaft, which is moveable through a working channel 139 of main unit 136. (See, Kuramoto, *e.g.*, Figs 22 and 23, col. 16 line 53 – col. 17, line 65.)

Claims 2-7, which depend from claim 1, are allowable at least for the reasons discussed above concerning claim 1.

Claim 8 is also rejected under 35 U.S.C. § 102 (b) as being anticipated by Kuramoto. Claim 8, as amended, recites “[a] distal tip for an endoscope comprising a socket suitable to receive either the staple-firing portion or the anvil portion of a stapling device; at least one illumination channel; and at least one objective lens coupled to an optical relay system.”

Kuramoto neither discloses nor suggests such an arrangement. Referring to Fig. 34 in Kuramoto, the illumination channel 168 and the objective optical system 167 are located on suction member 166, which can be moved back and forth within the stapler endoscope 165. Consequently, these elements are not located on the distal tip of endoscope 165, as required by claim 8, but on a separate element (suction member 166) that slides in the interior of the endoscope shaft.

Furthermore, element 172, identified by the examiner as a “socket,” is described by Kuramoto as a guide pipe for the anvil shaft 173, which extends from the anvil 174 that projects distally from

the end of suction member 166 to the operation section 161 at the proximal end of the endoscope, *i.e.*, guide pipe 172 is not a “socket” in the distal tip. Therefore this embodiment of Kuramoto's invention, as referenced by the Examiner, does not meet any of the limitations of claim 8.

Referring to the embodiment of Fig. 22 in Kuramoto, there is no “socket” into which either the staple-firing portion or the anvil portion can be inserted or withdrawn. In the embodiment shown in this figure, no socket is provided for receiving either the staple-firing portion or the anvil portion. For example, the annular stapler holder 124 is an integral part of the housing 138 on the distal end of insertion section 137, and the anvil 146 is on a separate auxiliary unit 141 that is attached to a flexible insertion section 142. The flexible insertion section 142 of the auxiliary unit 141 passes through channel 139 in the flexible insertion section 137 to the control section at proximal end of the endoscope. A *channel*, starting at the distal tip and traveling the length of the insertion tube to the proximal end of the endoscope, may not be considered the same as a *socket* in the distal tip. Accordingly, claim 8 is believed allowable over Kuramoto.

Claims 9-10, which depend from claim 8, are also allowable at least for the reasons discussed above concerning claim 8. It is respectfully requested that the rejections of claims 1-10 under 35 U.S.C. § 102 (b) as being anticipated by Kuramoto, be withdrawn.

**D. The Claims Are Not Anticipated by Yoon**

Claims 1-6 are rejected under 35 U.S.C. § 102 (e) as being anticipated by Yoon.

Yoon describes a device which is referred to as an “endoscope”, but actually is a laparoscope. The basic device, shown in Figs. 2 and 3, and an embodiment with two lenses,

shown in Figs. 7 and 8, is comprised of two components, a portal sleeve 14, 212 and a separate penetrating member 12, 210. Both components of the device are rigid. The portal sleeve is essentially a hollow tube through which the penetrating member, which is designed to pierce the skin, slides. As clearly shown in Fig. 8, one CMOS image sensor is mounted on the distal end of the portal sleeve and a second one on the distal end of the penetrating member. In contrast to amended claim 1, Yoon describes a device having two objective lenses each of which is on a separate *rigid* shaft which can be inserted independently of one another. Yoon neither discloses nor suggests an endoscope having an objective lens or lenses located on the distal tip of the endoscope and an objective lens or lenses located on the proximal end of an articulation section or on the sheath of said endoscope adjacent to or located proximally of the articulation section. Accordingly, claim 1 is believed allowable over Yoon.

Claims 2-6, which depend from claim 1, are believed allowable, at least for the reasons discussed above, regarding claim 1. It is respectfully requested that the rejection of claims 1-6 under 35 U.S.C. § 102 (e) as being anticipated by Yoon be withdrawn.

**E. The Claims Are Not Obvious**

Claims 1-7 are rejected under 35 U.S.C. § 103 as being unpatentable over El Gazayerli in view of Kuramoto

El Gazayerli discloses a flexible conduit 12, which is introduced transorally into esophagus, through which shafts comprising various instruments are introduced into the lower esophagus and stomach. One of these shafts is a conduit 12. A second is a gastroscope comprising a viewing device 14. A third is a fastening device 16, which comprises a supply of fasteners in fastener applicator 20. A fourth is a gripper mechanism 22 comprising the anvil

surface 40. As the Examiner has noted, the optical system is not on the same shaft as either of the components of the stapler assembly, which are also not located on the same shaft. As discussed above, the two optical systems of Kuramoto are located on separate shafts.

The combination of references by the Examiner is believed improper since the teachings of Kuramoto do not make up for the deficiencies of El Gazayerli. Therefore, the Examiner has not alleged a *prima facie* case of obviousness, in which all of the elements of the claim must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). The proposed combination of the teachings of Kuramoto and El Gazayerli would nevertheless comprise a minimum of three separate shafts, i.e., a first conduit 12, a stapler 16, and a gripper 22. The proposed combination of the teachings of Kuramoto and El Gazayerli does not disclose or suggest a *single shaft* on which are located both optical systems and all components of the stapler device. The advantages of having all of the tools necessary for carrying out a surgical procedure contained on a single sheath instead of spread over multiple shafts are numerous and nonobvious in view of the art cited by the Examiner.

Claims 2-7, which depend from claim 1 are also believed non-obvious over the cited references, at least for the reasons discussed above concerning claim 1. It is respectfully requested that the rejection of claims 1-7 under 35 U.S.C. § 103 be withdrawn.

**F. New Claims 11-16**

New claims 11-16 have been added by this amendment. Support for new claims 11-16 is provided throughout the specification and the claims. No new matter has been added by this amendment. Claims 11-16 depend, directly or indirectly, from claim 1, and are believed

allowable over the prior art of record, at least for the reasons discussed above concerning claim

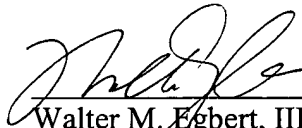
1. Allowance of new claims 11-16 is respectfully requested.

**CONCLUSION**

In view of the above amendments and remarks, Applicant believes that the application is in condition for allowance.

Respectfully submitted,

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Walter M. Egbert, III  
Patent Office Reg. No. 37,317

BAKER BOTTS L.L.P.  
30 Rockefeller Plaza  
New York, New York 10112-4498

Attorney for Applicants  
(212) 408-2500

**AMENDMENTS TO THE DRAWINGS**

The attached twenty seven (27) sheets of drawings include Figs. 1, 2A-E, 3A-3C, 4A-C, 8A, 9A-C, 10, 11, 12A-C, 13, and 14A-B.

The sheets which include Figs. 1, 2A-E, 3A-3C, 4A-C, 8A, 9A-B, 10, 11, 12A-C, 13, and 14A-B, replace the original sheets including Figs. 1, 2A-E, 3A-3C, 4A-C, 8A, 9A-B, 10, 11, 12A-C, 13, and 14A-B. In Figs. 1, 2A-E, 3A-3C, and 4A-C, the phrase "PRIOR ART" has been added. In Figs. 8A, 9A-B, 10, 11, 12A-C, 13, 14A-B, several components have been re-numbered for clarity. Replacement sheets and annotated sheets have been provided herein.

One sheet adding New Fig. 9C is attached.

Attachment: Thirteen (13) Replacement Sheets  
Thirteen (13) Annotated Sheets Showing Changes  
One (1) New Drawing Sheet